

No. 544831-II

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**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

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HEATHER BENEDICT,

Appellant,

v.

F. HUNTER MACDONALD,

Respondent.

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APPEAL FROM THE PIERCE COUNTY SUPERIOR COURT  
Judge Shelly Spiers  
Case Number: 19-2-12236-1

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**BRIEF OF APPELLANT**

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STATE OF WASHINGTON  
AP

P/M: 7/30/21

## TABLE OF CONTENTS

	<u>Page</u>
I. ASSIGNMENT OF ERROR.....	1
II. STATEMENT OF THE CASE.....	1
III. ARGUMENT .....	1
IV. CONCLUSION.....	2
V. CERTIFICATE OF SERVICE.....	3

## **I. ASSIGNMENTS OF ERROR**

1. The trial court erred in entering the order of \$5,000 awarding sanctions when it already made its final ruling.

## **II. STATEMENT OF THE CASE**

On July 24, 2020, the trial court verbally granted a motion for sanctions as fees to be awarded to F. Hunter MacDonald ("MacDonald"), pro se attorney and Defendant, based on CR 11 and RCW 4.84.185.

THE COURT: I'll grant the request for attorney's fees as sanctions." (CP 112, line 16-17.)

There was no ruling by the trial court for sanctions beyond attorney fees although MacDonald later inserted additional sanctions to the Court beyond the original ruling or his own original pleadings.

The August 21, 2020 order made no mention of sanctions beyond attorney fees and costs. The trial court entered a written order, stating on page 2, paragraphs:

6. Defendant MacDonald's Motion for his fees in bringing his dismissal motion and in defending this case are GRANTED as a CR 11 sanction against Plaintiff Benedict and also pursuant to RCW 4.84.185 and in accordance with the Court's 7/24/20 verbal orders.

8. The amount of attorney's fees and costs to be granted to Defendant MacDonald are reserved and will be determined at the September 4, 2020 hearing currently noted for that purpose or, in the event of a continuance of such hearing, to the time and date to which that hearing is continued.

## **III. ARGUMENT**

1. Whether the Court can add a \$5,000 sanction payable to the Court when that was not part of its ruling? **No. The Court should only award the fees which it determined in its ruling on August 21, 2020.**

The language in the August 21, 2020 order is limited to sanctions for attorney fees. The Court record does not reflect MacDonald ever arguing sanctions to the Court in his initial pleadings or stating it in the original ruling transcripts. The order limits the award as well, and the Court should not have gone beyond that ruling to award further amounts to be given to the Court. The \$5,000 sanction was not allowed by the July 24, 2020 verbal order nor August 21, 2020, written ruling nor was in plead in MacDonald's original motions and should be corrected. Benedict had no opportunity to defend against these sanctions because neither party motioned the Court for this order. It was simply a sleight of hand move by MacDonald by slipping it in at the presentation of order, and this type of action lacks due process and therefore, should be vacated.

#### **IV. CONCLUSION**

For the foregoing reasons, Benedict respectfully requests this Court correct its October 9, 2020 decision granting additional award of \$5,000.

July 21, 2021

Respectfully submitted,



Heather Benedict,  
Appellant

**V. CERTIFICATE OF SERVICE**

The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, and over the age of eighteen years.

This is to certify that on the 21st of July 2021, I caused the document to which this Certificate of Service is attached to be sent to the individuals identified below via first class US Mail.

F. Hunter MacDonald  
Pro se Defendant  
707 South Grady Way #600  
Renton, WA 98057-3227

Dated this 21st of July, 2021

Heather Benedict

Heather Benedict

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